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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/557,928	04/22/2000	Darrell R. Colbert	COLPATUS002	9057

7590 11/05/2002

John R Casperson  
PO Box 2174  
Friendswood, TX 77549

EXAMINER

KING, BRADLEY T

ART UNIT	PAPER NUMBER
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3683

DATE MAILED: 11/05/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Applicati n No.

09/557,928

Applicant(s)

COLBERT, DARRELL R.

Examiner

Bradley T King

Art Unit

3683

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 12 August 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 6-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 12-20 is/are allowed.
- 6) ☒ Claim(s) 6-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 April 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                             | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____                                    |

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## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the feature of a plastic wrapper attached to the splines (claim 15) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims are rejected under 35 U.S.C. 103(a) as being unpatentable over JP 8-80691.

4. Claims 6-11, and 14-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP 8-80691 in view of Murray.

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JP 8-80691 discloses a scented calendar with a plurality of sheets of paper each having a monthly artwork image on one face, and a plurality of scent elements, wherein the artwork images comprise images of flowers (figure 2), and the scent elements which are carried by the calendar carry flower scents (paragraph [0009]) corresponding to the artwork images, wherein the scent elements are encased in a plastic wrapper which can be removed by a user to release a scent which corresponds to a monthly artwork image. JP 8-80691 lacks the particular calendar layout. The recited layout is well known in the art. Murray discloses this layout including artwork on one face and a monthly calendar image on the other, and a hole 19 on the bottom of the calendar image to permit hanging. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to utilize the layout of Murray with the scent feature of JP 8-80691 to provide an aromatically pleasing calendar in a compact and easily manufacturable form.

Regarding claim 7, Murray discloses a spiral type fastener (column 2, lines 21-22).

Regarding 8-11, JP-8-80691 lacks a separate scent element positioned between the images, but instead discloses the use of aromatic ink. Scent elements are well known in the art and frequently utilized in cards and inserts. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to provide a separate scent element in the calendar of JP 8-80691 to simplify construction and permit the use of a greater number of aromas, and placing the element between the images as it provides a convenient location which does not interfere with the viewing of the calendar.

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***Allowable Subject Matter***

5. Claims 12-20 are allowed.

***Response to Arguments***

6. Applicant's arguments filed 8/12/02 have been fully considered but they are not persuasive.

Regarding the 112 2nd rejection, the description noted by applicant has been considered and the rejection has been withdrawn. However, claim 15 requires a "plastic wrapper" which can be removed by the user. The "pocket" of figure 5 does not share this function, nor is it defined by the specification as a wrapper. Page 6, first paragraph of the instant specification appears to give proper antecedent basis for the features of claim 15. These features do not appear to be illustrated by the drawings.

Regarding claim 6, it is maintained JP 8-80691 discloses monthly images of flowers and corresponding scents. Figure 2 shows a flower image and the disclosure corresponding to figure 2 (paragraphs [0009] and [0014]) disclose utilizing perfumes of the flower represented at every month.

***Conclusion***

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

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Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bradley King whose telephone number is (703)308-8346.

BTK

November 1, 2002

  
JACK LAVINDER  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600  
11/01/02